

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHARLES WHITE,
Plaintiff,
vs.
JEFFREY A. UTTECHT,
Defendant.

NO. CV-10-5076-EFS

**ORDER DENYING APPLICATION TO
PROCEED *IN FORMA PAUPERIS* AND
DISMISSING ACTION WITHOUT
PREJUDICE**

By this action, Mr. White appears to be alleging violations of his procedural rights under the Interstate Agreement on Detainers ("IAD"), 18 U.S.C., app. 2. If a state prisoner challenges the fact or duration of his confinement, or seeks a determination that he is entitled to release or a shortening of his period of confinement, his only federal remedy is a writ of habeas corpus, with its requirement of exhaustion of state remedies. See *Preiser v. Rodriguez*, 411 U.S. 475, 487-90 (1973); *Heck v. Humphrey*, 512 U.S. 477, 481 (1994); see also *Parette v. Lockhart*, 927 F.2d 366, 367 (8th Cir.1991) (citing *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484 (1973)) (A state prisoner must exhaust all available state remedies before filing a federal habeas petition attacking an out-of-state detainer).

In his complaint, Mr. White indicates he has filed a grievance at the Coyote Ridge Correction Center. In response, he was advised his

ORDER DENYING APPLICATION TO PROCEED *IN FORMA PAUPERIS* AND DISMISSING ACTION WITHOUT PREJUDICE -- 1

1 classification issue was not an appropriate subject for a grievance.
2 Mr. White does not state what appropriate measures he has taken under
3 the IAD.

4 A prisoner confined in one state may challenge a detainer lodged
5 against him and the legality of the charge on which it was based by
6 means of a petition for federal habeas corpus in the district where the
7 prisoner is confined and also in the district where the detainer was
8 issued. *Braden v. 30th Judicial Cir. Ct. of Kent.*, 410 U.S. 484. When
9 a person brings an action in the district of confinement attacking a
10 detainer lodged by another state, the court can transfer the suit to a
11 more convenient forum. 28 U.S.C. § 1404(a); *Braden*, 410 U.S. at 499
12 n.15. Plaintiff has not filed an appropriate action in this Court and
13 it does not appear a transfer of the action would be an effective use of
14 judicial resources at this time.

15 Furthermore, a grant of *in forma pauperis* status in this action
16 brought pursuant to 42 U.S.C. § 1983 would impose a financial obligation
17 of \$350.00 on Mr. White. Because it appears Plaintiff's choice to bring
18 this as a civil rights matter, rather than as a habeas matter, was in
19 error, **IT IS ORDERED** the application to proceed without pre-payment of
20 the filing fee is **DENIED** and this action is **DISMISSED without prejudice**
21 to Mr. White filing an appropriate action in an appropriate forum once
22 he has exhausted his state court remedies.

23 ///

24 ///

25 ///

26 ///

27
28 ORDER DENYING APPLICATION TO PROCEED *IN FORMA PAUPERIS* AND DISMISSING
ACTION WITHOUT PREJUDICE -- 2

1 **IT IS SO ORDERED.** The District Court Executive is directed to
2 enter this Order, enter judgment, forward copies to Plaintiff at his
3 last known address, and close the file. The Court certifies any appeal
4 of this dismissal would not be taken in good faith.

5 **DATED** this 8th day of July 2010.
6
7

8 S/ Edward F. Shea
9 _____
10 EDWARD F. SHEA
11 United States District Judge

12 Q:\Civil\2010\10cv5076efs-7-7-denyifpdisIAD.wpd
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27